

**STATEMENT OF  
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BEFORE THE  
COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON OVERSIGHT & INVESTIGATIONS  
U.S. HOUSE OF REPRESENTATIVES**

**APRIL 13, 2015**

Good afternoon, Chairman Coffman, Ranking Member Kuster, and Members of the Committee. Thank you for inviting me here today to present an update on the Department's activities related to whistleblower protection.

VA exists to serve Veterans. That service takes place through interactions between Veterans and front-line VA employees – physicians, nurses, and other clinicians in VA hospitals, claims processing staff in regional benefits offices, cemetery workers and countless others – upon whom VA depends to serve Veterans with the dignity, compassion, and dedication they deserve. We depend on those same employees to have the moral courage to help us serve Veterans and taxpayers better by helping to make our processes and policies better, safer, and more effective and efficient. Within this context, the Department's responsibility to protect whistleblowers is an integral part of our obligation to provide safe, high-quality health care, and other benefits to Veterans in legally-compliant and fiscally-responsible ways. Protecting whistleblowers from retaliation is a key component of carrying out VA's core mission in accordance with its institutional values (I CARE – integrity, commitment, advocacy, respect, excellence). Veterans expect VA leadership to cultivate an environment that empowers our employees and demands accountability in service to our Veterans. We are making progress, and under Secretary McDonald's leadership, we will reach our goal of ensuring that every employee feels safe in raising concerns, and is protected from any retaliation when they choose to do so.

It is important to keep in mind that the underlying purpose of the whistleblower protection rules is to encourage the candid disclosure of information about problems

with governmental programs and processes, so that deficiencies can be corrected and unsafe or unlawful behavior can be quickly corrected. Of necessity, there are teeth built into the law in terms of penalties for supervisors who retaliate against whistleblowers, but the penalties exist to support the primary focus on information flow and quality, safety, or process improvement.

VA is fully committed to correcting deficiencies in its processes and programs, and to ensuring fair treatment for whistleblowers who bring those deficiencies to light. Secretary McDonald talks frequently about his vision of “sustainable accountability,” which he describes as a workplace culture in which VA leaders provide the guidance and resources employees need to successfully serve Veterans, and employees freely and safely inform leaders when challenges hinder their ability to succeed. We need a work environment in which all participants – from front-line staff through lower-level supervisors to senior managers and top VA officials – feel safe sharing what they know, whether good news or bad, for the benefit of Veterans and as good stewards of the taxpayers’ money.

To reach these goals, the Department has taken several important steps to improve the way we address operational deficiencies, and to ensure that those who disclose such deficiencies are protected from retaliation:

- Reorganization and new leadership in the Office of the Medical Inspector (OMI), the component of the Veterans Health Administration that reviews whistleblower disclosures related to VA health care operations;
- Establishment of the Office of Accountability Review (OAR) to ensure leadership accountability;
- Completion of all requirements for certification under the Office of Special Counsel’s (OSC) 2302(c) certification program;
- Improved collaboration with OSC, including negotiating an unprecedented expedited process to speed corrective action for employees who have been subjected to retaliation;
- Formal VA leadership communication to all employees regarding the importance of whistleblower protection, emphasizing that managers and

supervisors bear a special responsibility for enforcing whistleblower protection laws; and

- Required annual training by all senior executives (Course title: “Whistleblower Rights and Protection and Prohibited Personnel Practices”).

Last summer, the Secretary reorganized and assigned new leadership to the VA Office of the Medical Inspector (OMI). He also established the Office of Accountability Review, or OAR, to ensure leadership accountability for whistleblower retaliation and other serious misconduct. In addition to its ongoing work investigating allegations of retaliation and other misconduct by senior leaders, OAR is also working to improve the Department’s ability to track whistleblower disclosures - and actions taken in response to those disclosures - across the entire VA system, whether the disclosure is referred to VA by OSC, comes in through the VA Office of Inspector General (OIG) Hotline, is brought to the Department’s attention by this Committee or an individual Member of Congress, or is communicated by a VA employee directly to his or her supervisor .

VA has also improved its collaboration with OSC, especially with respect to whistleblower retaliation training and remedies. Last summer, VA requested and received certification under OSC’s 2302(c) certification program. That certification reflects the Department’s compliance with five requirements related to training employees and supervisors about whistleblower protection rules, and providing information about whistleblower rights and processes to current employees as well as new hires. Last summer, VA also negotiated with OSC, an expedited process to speed corrective action for employees who have been subjected to retaliation. That process, which is unprecedented and unparalleled in Federal government, allows OSC and VA to work as partners to protect whistleblowers from retaliation. More recently, we have asked OSC to help us expand that collaborative process to facilitate more efficient accountability actions for supervisors who engage in retaliatory conduct. We are also working with OSC’s Training and Outreach staff to create a robust new face-to-face training program for VA supervisors, to ensure they understand their roles and responsibilities with respect to responding to whistleblower disclosures, and protecting employees who make those disclosures.

Since Secretary McDonald was confirmed last July, he and other VA leaders have made it their practice to meet with whistleblowers when they travel to VA facilities, and to engage with those who have raised their hands and their voices to identify problems and propose solutions. They do that both to acknowledge the critical role whistleblowers play in improving the quality, safety, and effectiveness of VA programs, and to model to supervisors throughout VA the engaged, open, accepting behavior they expect them to exhibit when subordinates step forward to express concerns. Secretary McDonald, Deputy Secretary Gibson, and other VA leaders have also initiated countless meetings, phone calls, and other communications with Members of this Committee, with committee staff, and with other Congressional committees and members to talk about particular whistleblowers for whom Members have expressed concern. The Department deeply appreciates the assistance of this Committee and others in identifying potential retaliation so we can stop it, and in ensuring that the problems whistleblowers disclose receive prompt, and fulsome attention.

Last month I had the opportunity to appear before this Subcommittee to provide the Department's views on several pending bills, including two related to whistleblowers. At that time I acknowledged, and I reiterate today, that the Department has had and continues to have problems ensuring that whistleblower disclosures receive prompt and effective attention, and that whistleblowers themselves are protected from retaliation. And I acknowledge today that, notwithstanding significant and ongoing efforts on our part, VA is still working toward the full culture change we must achieve to ensure all employees feel safe disclosing problems, or that all supervisors who engage in retaliatory behavior are held promptly and meaningfully accountable. At the subcommittee hearing last month, I articulated the Department's concerns that the proposed legislative approaches to improving VA's responses to whistleblower disclosures might have unintended consequences. At the same time, I committed, on behalf of the Department, to continue to work with OSC and with this Committee to get things right, and I reaffirm that commitment to you today. I am honored that Secretary McDonald and Deputy Secretary Gibson have asked me to assist them in this critical effort.

Mr. Chairman, this concludes my testimony. I look forward to answering the Committee's questions.